

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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LEBLANC NUTRITIONS, INC.,

Plaintiff,

v.

ADVANCED NUTRA, LLC,

Defendant.

NO. CIV. S-05-0581 FCD-JFM

MEMORANDUM AND ORDER

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ADVANCED NUTRA, LLC aka  
ADVANCED LABORATORIES  
INTERNATIONAL, LLC, a Nevada  
LLC, dba ADVANCED NUTRA,

Third Party Plaintiff,

v.

GLOBAL DISTRIBUTION, INC.,

Third Party Defendant.

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This matter is before the court on Hardy Erich Brown &  
Wilson's motion to withdraw as attorney of record for third party  
defendant, Global Distribution, Inc.. Counsel brings this motion  
on the grounds that by its refusal to pay future litigation

1 expenses, defendant has rendered it impossible for counsel to  
2 continue the employment effectively. Global Distribution, Inc.  
3 does not oppose the motion.

4 Local Rule 83-182(d) requires that attorneys may not  
5 withdraw from an action in which they have appeared without leave  
6 of the court upon noticed Motion. The Local Rule incorporates  
7 the requirements for withdrawal and the Rules of Professional  
8 Conduct of the State Bar of California. The Rules of  
9 Professional Conduct of the State Bar of California provide in  
10 pertinent part:

11 A member shall not withdraw from employment until the  
12 member has taken reasonable steps to avoid reasonably  
13 foreseeable prejudice to the rights of the client,  
14 including giving due notice to the client, allowing  
time for employment of other counsel, complying with  
rule 3-700(D), and complying with applicable laws and  
rules.

15 California Rules of Professional Conduct, Rule 3-700(A)(2).  
16 Counsel has complied with these requirements by providing  
17 defendant notice of its intent to bring the instant motion on or  
18 about July 21, 2006 and by providing the court with defendant's  
19 last known address. Third party defendant did not file an  
20 opposition to the instant motion.

21 Pursuant to California Rules of Professional Conduct, Rule  
22 3-700(C), withdrawal is permitted in certain specified  
23 circumstances. Counsel contends that withdrawal is warranted  
24 under Rule 3-700(C)(1)(d), where the client's conduct renders it  
25 unreasonably difficult for the attorney to carry out the  
26 employment effectively, and Rule 3-700(C)(1)(f), where the client  
27 breaches an agreement or obligation to the attorney as to  
28 expenses or fees.

1 In his declaration, L. Kent Wyatt, an attorney with Hardy  
2 Erich Brown & Wilson, represents that defendant is in breach of  
3 the fee agreement between counsel and defendant, and that such  
4 breach adversely affects his ability to fully and properly  
5 represent defendant. Mr. Wyatt states that the owner of Global  
6 Distribution, Inc., has informed him that he does not intend to  
7 pay current or future legal expenses. Mr. Wyatt further states  
8 that he has advised the owner of defendant Global Distribution,  
9 Inc., of his intent to withdraw.

10 Pursuant to E.D. Cal. L.R. 83-183(a), a corporation may not  
11 appear in propria persona. Thus, Global Distribution, Inc. must  
12 obtain counsel to avoid having a default judgment entered against  
13 it. The court advised Matt McDonnell, a representative of Global  
14 Distribution Inc., of the serious legal consequences of failing  
15 to find substitute representation at the motion hearing held on  
16 July 21, 2006.<sup>1</sup> The court also stated that it would defer  
17 issuing the order granting the motion to withdraw for two weeks  
18 in order to allow Global Distribution, Inc. to obtain new  
19 counsel.

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28 <sup>1</sup> Matt McDonnell appeared at the hearing via telephone.

1 Based upon the materials submitted by counsel, Hardy Erich  
2 Brown & Wilson's motion to withdraw as attorney of record is  
3 GRANTED. Hardy Erich Brown & Wilson shall comply with the  
4 requirements of California Rules of Professional Conduct, Rule 3-  
5 700(D).

6 IT IS SO ORDERED.

7 DATED: August 4, 2006

8 /s/ Frank C. Damrell Jr.  
9 FRANK C. DAMRELL, Jr.  
UNITED STATES DISTRICT JUDGE